

1 HELANE A. SIMON, ESQ., CAB 200946

2 930 PALO VERDE AVE.

3
4 LONG BEACH, CA 90815

5 [5628950770](tel:5628950770)

6 LAWOFFICEOFHELANEASIMON@YAHOO.COM

7
8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA,

10
11) CASE NUMBER
12 TERRY D. LAWRENCE, Plaintiff) COMPLAINT FOR:
13 V.) 1.VIOLATION OF AFFORDABLE
14)
15 ADVENTIST HEALTH MEDICAL CENTER) CARE ACT §1557, 42 U.S.C. §18116
16 TEHACHAPI, AND) (DISCRIMINATION BASED ON SEX)
17)
18 ADVENTIST HEALTH MEDICAL CENTER,) 2.VIOLATION OF CALIFORNIA'S
19 BAKERSFIELD) UNRUH CIVIL RIGHTS ACT, CIVIL
20)
21 AND DOES 1-10) CODE §51 ET.SEQ.(DISCRIMINATION
22) BASED ON SEX)
23 - Defendants) 3. VIOLATION OF CALIFORNIA'S
24 UNRUH CIVIL RIGHTS ACT, CIVIL
25)
26 CODE §51 ET.SEQ. (DISCRIMINATION
27 BASED ON DISABILITY)
28 4. VIOLATION OF CALIFORNIA

GOVERNMENT CODE §11135

(DISCRIMINATION BASED ON SEX)

5. VIOLATION OF CALIFORNIA

GOVERNMENT CODE §11135

(DISCRIMINATION BASED ON

DISABILITY)

6. VIOLATION OF CALIFORNIA

BUSINESS AND PROFESSIONS CODE

§17200 ET. SEQ.

7. VIOLATION OF CALIFORNIA

BUSINESS AND PROFESSIONS CODE

§17500 ET. SEQ.

Plaintiff, TERRY D. LAWRENCE (TERRY) an individual, by and through his attorney, hereby alleges as follows against Defendant ADVENTIST HEALTH MEDICAL CENTER BAKERSFIELD AND ADVENTIST HEALTH MEDICAL CENTER TEHACHAPI (Collectively “Adventist”) as follows:

INTRODUCTION

1. Plaintiff, Terry D. Lawrence is a transgender male who sought treatment on three separate occasions at Defendant Adventist Hospitals. Twice at the hospital in his home city of Tehachapi, and once in the nearby city of Bakersfield, CA

1 2. This case is an action to secure relief for violations of rights guaranteed by the
2 Patient Protection and Affordable Care Act (the ACA) 42 U.S.C. Section 18116
3 (Section 1557), California Civil Code Sections 51 et seq., also known as the Unruh
4 Civil Rights Act (The Unruh Act), California Government Code Section 11135
5 (Section 11135), California Business & Professions Code Section 17200, also known
6 as the California Unfair Competition Law (Section 17200) and California Business &
7 Professions Code Section 17500 (Section 17500).

8 3. Section 1557 of the ACA prohibits discrimination based on sex by health care
9 providers that receive federal financial assistance. 42 U.S.C. Section 18116(a); 20
10 U.S.C. Sections 1681(a). The Unruh Act prohibits discrimination in public
11 accommodations in the State of California on the basis of sex (which expressly
12 includes gender identity) and disability. Cal. Civ. Code Sections 51(b), (e)(1), (e)(5).

13
14 4. Both statutes prohibit health care programs from discriminating against a patient
15 based on the patient's sex, which includes gender identity. Terry experienced severe
16 emotional distress and other damages after he was discriminated against on the basis
17 of his sex and/or his disability while he was a patient at Adventist.

18
19 5. Section 11135 of the California Government Code also prohibits discrimination
20 on the basis of sex (which expressly includes gender identity) by government
21 agencies or any entity that receives funding from the state of California. See Ca.
22 Gov't Code Sections 11135, 1292(r)(2). Adventist's actions and omissions also
23 constitute discrimination on the basis of sex, gender identity, and/or disability within
24 the meaning of Section 11135 of the California Government Code.

25
26 6. Section 17200 of the California Business & Professions Code prohibits any
27 "unlawful, unfair or fraudulent business act or practice" as well as any "unfair,
28

1 deceptive, untrue or misleading advertising.” Cal. Bus. & Professions Code Section
2 17200.

3
4 7. Section 17500 of the California Business & Professions Code prohibits, among
5 other things, a business from making or disseminating a statement concerning
6 professional services that is untrue or misleading and is either known or should be
7 known to be untrue or misleading. Cal. Bus. & Prof. Code Section 17500.

8
9 8. Despite Adventists representations in their “Gender identity and our registration
10 process” that they “address and refer to our patients on the basis of their self-
11 identified gender, using their pronouns and name” they did not do so at any of the
12 Adventist visits by Plaintiff especially when they continued to refer to him as her and
13 female in front of his 10 year old son.

14
15 9. Despite Adventists representations in the same pamphlet that they “ensure the
16 care, treatments and services meet the individual needs of our patients” they did not
17 act in conformance with this claim when they insisted Plaintiff wear a wristband that
18 identified him as female. They further did not act in conformance with their claim
19 that “[i]nformation regarding your gender identity is part of your medical record” and
20 that this “information is confidential and protected by law” when they placed
21 Plaintiff’s personal information on the wristband they insisted he wear in
22 contravention of their claims and Federal laws.

23
24 10. Despite Adventists representations that they had an admissions process that was
25 sensitive to the Transgender population and knowledge of the associated
26 discrimination laws, they discriminated against Plaintiff when they treated him
27 differently than they treat any other non-transgender male amount to discrimination
28

1 within the meanings of Section 1557 of the ACA, the Unruh Act, and California
2 Government Code Section 11135.

3
4 11. Adventist's discriminatory conduct toward and treatment of Plaintiff also
5 constitute unlawful and/or unfair business practices within the meaning of California
6 Business and Professions Code Section 17200.

7 JURISDICTION AND VENUE

8 12. This Court has original jurisdiction over Plaintiff's claims arising under the ACA,
9 42 U.S.C. Section 18116, pursuant to 28 U.S.C. Section 1331

10 13. Plaintiff's state law claims are so related to those under which this Court has
11 original jurisdiction that they form part of the same case and controversy.

12 Supplemental jurisdiction is therefore appropriate over Plaintiff's remaining claims
13 pursuant to 28 U.S.C. Section 1367

14 14. Venue is proper in this Court pursuant to 29 U.S.C. Section 1391(b), because the
15 events giving rise to the claims made herein occurred in this Judicial District, and
16 Defendants have a principal place of business within this District.

17 PARTIES

18 15. Terry Lawrence is an adult male, resident of the County of Kern, the City of
19 Tehachapi.

20 16. Defendants Adventist Health are now, and was at all times mentioned herein a
21 nonprofit healthcare organization with its principal place of business located in
22 Tehachapi and Bakersfield California. Adventist is a business establishment that
23 offers to the public accommodations, advantages, facilities, privileges, and services.

24 17. Upon reasonable information and belief, Defendant receives federal and state
25 financial assistance such as credits, subsidies, or contracts of insurance within the
26 meanings of Section 1557 of the ACA and Section 11135 of the California
27 government Code. 42 U.S.C. Sections 18116(a); Cal. Gov't Code Section 11135. 42
28

1 U.S.C. Sections 18116(a); Cal.Gov't Code Section 11135. According to the
2 Department of Health and Human Services.

3 18. At all relevant times, Adventist employed the services of doctors, nurses, other
4 professional and non-professional health care providers, and staff including the
5 nurses, other health care providers, and staff who interacted with Plaintiff in 2019 and
6 2020. Adventist advertised its literature that they had a sensitive and legal registration
7 process. (See Exhibit A) They in fact do not.

8 GENDER IDENTITY, TRANSGENDER AND GENDER DYSPHORIA

9 19. Gender identity is the personal sense of one's own gender. Gender identity can
10 correlate with a person's assigned sex or can differ from it. Gender
11 expression typically reflects a person's gender identity, but this is not always the
12 case. While a person may express behaviors, attitudes, and appearances consistent
13 with a particular gender role, such expression may not necessarily reflect their gender
14 identity. In most societies, there is a basic division between gender attributes assigned
15 to males and females, a gender binary to which most people adhere and which
16 includes expectations of masculinity and femininity in all aspects of sex and gender:
17 biological sex, gender identity, and gender expression. Some people do not identify
18 with some, or all, of the aspects of gender assigned to their biological sex; some of
19 those people are transgender, non-binary, or genderqueer. Some societies have third
20 gender categories. (https://en.wikipedia.org/wiki/Gender_identity)

21
22 20. Transgender people have a gender identity or gender expression that differs from
23 the sex that they were assigned at birth. Some transgender people who desire medical
24 assistance to transition from one sex to another identify as transsexual. Transgender,
25 often shortened as trans, is also an umbrella term; in addition to including people
26 whose gender identity is the opposite of their assigned sex (trans men and **trans**
27 **women**), it may also include people who are non-binary or genderqueer. Other
28 definitions of transgender also include people who belong to a third gender, or else
conceptualize transgender people as a third gender. The term transgender may be

1 defined very broadly to include cross-dressers.

2 (<https://en.wikipedia.org/wiki/Transgender>)

3
4 21. Being transgender is distinct from sexual orientation. Transgender people may
5 identify as heterosexual (straight), homosexual (gay or lesbian), bisexual, asexual, or
6 otherwise, or may decline to label their sexual orientation. The opposite
7 of transgender is cisgender, which describes persons whose gender identity matches
8 their assigned sex. (<https://en.wikipedia.org/wiki/Transgender>)

9 22. The degree to which individuals feel genuine, authentic, and comfortable within
10 their external appearance and accept their genuine identity has been
11 called transgender congruence. Many transgender people experience gender
12 dysphoria, and some seek medical treatments such as hormone replacement
13 therapy, sex reassignment surgery, or psychotherapy. Not all transgender people
14 desire these treatments, and some cannot undergo them for financial or medical
15 reasons. (<https://en.wikipedia.org/wiki/Transgender>)

16 23. The Diagnostic and Statistical Manual of Mental Disorders (DSM-5) defines
17 gender dysphoria as a marked difference between a person's gender identity and their
18 assumed gender at birth, which persists for at least six months and manifests itself in
19 at least two other symptoms (e.g., "a strong desire to be of the other gender," and/or
20 "a strong desire to be treated as the other gender"). American Psychiatric Association
21 DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS 452
22 (5th ed. 2013). Gender dysphoria is associated with clinically significant distress or
23 impairment in social occupational, or other important areas of functioning. Id at 453.
24 If left untreated, this clinical distress can lead to debilitating depression and
25 diminishment of self-esteem as well as serious incidents of self-harm, suicide
26 attempts and suicide.

27
28 24. Medical evidence and clinical practice continue to demonstrate that family and
societal rejection or disregard of a person's gender identity is harmful to that person.

1 25. Plaintiff Terry Lawrence is a transgender male. Transition is the process by which
2 a person brings their outer appearance and identity into closer alignment with their
3 gender identity or affirmed identity.

4 26. Despite the positive effect his transition has had on his life, Mr. Lawrence still
5 experienced depression and gender dysphoria when he experienced societal disregard,
6 rejection of his gender identity.

7 27. Once a transgender person with gender dysphoria transitions, being referred to
8 with the wrong gender pronoun or honorific is often incredibly distressing. Such
9 misgendering is frequently understood by a transgender person as rejection or denial
10 of the person's identity and can significantly exacerbate gender dysphoria.

11 DEFENDANT'S WRONGFUL CONDUCT

12 28. This misgendering occurred on three separate occasions at two of Defendant's
13 medical centers. Plaintiff was misgendered in Defendant's computer data on him, he
14 was asked on two occasions to wear a wrist band which labeled him Female, and he
15 was orally referred to as Female, despite correcting the agents and employees of
16 Defendants, and in front of other employees, patients and Plaintiff's 10 year old son.

17 29. Defendants advertise on their websites and in "Gender identity and our admission
18 process" pamphlet that they are sensitive to gender issues and would NOT do to
19 Plaintiff what they in fact did on three separate occasions. (see Exhibit B, Declaration
20 of Terry D. Lawrence)

21 30. On December 20, 2019 Terry walked into Adventist Health Tehachapi Valley
22 with sore ribs for an X Rays. Upon admission he was asked for his drivers license,
23 which has his updated gender on it. The nurse used my proper male pronoun, as I
24 appear male in everyway.

25 31. Plaintiff was then taken to a curtained room in the E.R. The X-ray tech used an
26 apron on my private area, which is typical to protect the genitals/sperm.

27 32. After his X-ray, a young woman came in to get insurance information. She asked
28 Plaintiff if his wife was taken in for her X-ray. Plaintiff looked at her monitor, which

1 showed his old drivers license picture. He explained she had his old information and
2 that he was transgender and she needed to update her information. She was very kind
3 and updated all the information in her system.

4 33. Subsequently, the kind lady left and another came in and said she had to change is
5 wristband. She proceeds to cut off Plaintiff's wristband that said M for male and put
6 on a wristband that had F for female with three asterisks after it.

7 34. Plaintiff inquired as to the meaning and she went on to explain that F is for female
8 at birth and the 3 asterisks mean transitioned to male.

9 35. Plaintiff was at that point extremely uncomfortable with her and this new
10 wristband, which essentially stated he is not male, but rather "something else."

11 36. Plaintiff began to feel physically sick to his stomach. Tehachapi is a small
12 conservative town. He felt he and his family were unsafe and began to feel dysphoric
13 and angry. He wanted to leave.

14 37. He felt every one of the staff in the ER now knew his status as transgender.
15 He was also outraged at what happened. A few days after this he called the Hospital
16 Compliance line for LGBTQI people and filed a formal complaint.

17 A gentleman took his complaint and said someone would get back to him in
18 approximately two weeks. No one ever did. He then called the hospital Admissions
19 Director who gave him a phone number to hospital staff who had nothing to do with
20 their admissions policies or procedures for LGBTQI people. He never received a call
21 back.

22 37. On 11/18/20 Plaintiff went to Defendant's emergency room with his wife and son
23 to get checked for possible Covid. They were placed in a room with another patient.
24 His personal health information was brought in for review.

25 38. He told them no, this is not correct. Despite having corrected it the year before, he
26 was again listed as a female and given a wristband with the same label, female.

1 He refused to wear the wristband. This caused considerable stress to Plaintiff, his
2 wife and his 10-year-old son who asked his father why they kept referring to him as
3 female.

4
5 39. He asked to speak to a supervisor and their on duty social worker was Kelly
6 McBride. He explained to them again that he had legally changed all of his
7 information in a court of law. He explained again that it is not acceptable that they
8 insist on giving him a wristband that says female as it puts him and his family in
9 harms way in a small conservative town.

10
11 40. It also puts him in harms way when he goes through the hospital to any necessary
12 department X-ray, blood work or anything else. His wristband is checked and he is
13 again “outed” to more people.

14
15 41. Plaintiff is not comfortable going to this hospital or bringing his family. This is
16 the ONLY hospital in his area.

17
18 42. This second episode with Defendant’s hospital caused considerable distress;
19 dysphoria and psychological harm from which Plaintiff has not recovered and for
20 which he continues have therapy

21
22 43. On 12/23/2020, Plaintiff was referred to Adventist Health of Bakersfield.

23 When he registered he noticed on the screen they was AGAIN listed as Female. He
24 again explained to that this needed to be changed, as it was problematic for his
25 health and safety.

26 44. She tried to change the designation and went into her computer system to try to
27 change the information and it would not allow her to update.

1 Plaintiff told her he had the same problem on two occasions at Adventist Hospital in
2 Tehachapi and that he really wanted this resolved. He also informed her that he
3 would not be wearing a wristband that said female.

4 Again Plaintiff felt dysphoric, angry, unseen, unrecognized, and unheard and unsafe.

5 He continues to work on this in therapy, to discuss my gender dyphoria and

6 45. ~~Every~~ time he goes into a hospital now he experiences anxiety.

7
8 FIRST CAUSE OF ACTION

9 VIOLATION OF AFFORDABLE CARE ACT SECTION 1557, 42 U.S.C. SECTION 18116
(DISCRIMINATION BASED ON SEX)

10 46. Plaintiff incorporates by reference each and every allegation in the foregoing
11 paragraphs of this Complaint.

12
13 47. The Affordable Care Act (ACA) included robust antidiscrimination provisions
14 prohibiting healthcare programs receiving federal assistance from discriminating on the basis of
15 sex 42 U.S.C Section 18116

16
17 48. Defendant is a hospital facility that receives federal funding in the form of
18 extensive federal grants for services provide to its patients. Defendant therefore meets the
19 requirement of being a “health program or activity, any part of which is receiving Federal
20 financial assistance.” 42 U.S.C. Section 1811(a)

21
22 49. The ACA’s ban on sex discrimination includes discrimination against any
23 individual on the basis of sex for the purpose of providing health services The ACA provides the
24 following:

25
26 [A]n individual shall not, on the ground prohibited under . . . Title IX of the
27 Education Amendments of 1972 (20 USC 1681 et seq.)...be excluded from [A]n
28 [A]n individual shall not, on the ground prohibited under title IX of the Educaiton
Amendments of 1972 (20 USC 1681 et seq.) . . . be excluded from participation
in, be denied benefits of, or be subjected to discrimination under, any health

1 program or activity, any part of which is receiving Federal financial assistance,
2 including credits, subsidies, or contracts of insurance, or under any program or
3 activity that is administered by an Executive Agency or entity established under
this title (or amendments). 42 U.S.C. Section 18116(a)

4 50. Title IX of the Education Amendments of 1972, 20 U.S.C. Section 1681 et
5 seq., prohibits discrimination based on sex in education programs that receive
6 federal financial assistance. Over the past two decades, federal courts have been
7 nearly unanimous in interpreting federal civil rights laws, including Title IX and
8 Title VII, to prohibit discrimination against transgender people. Federal agencies
9 similarly have interpreted federal civil rights laws to prohibit discrimination or
10 harassment of transgender people. The regulations implementing the ACA's
11 nondiscrimination provision mandate that covered entities must "treat individuals
12 consistent with their gender identity" 45 C.F.R. Section 92.206.

13
14 51. As a transgender adult, Terry Lawrence has a right under the ACA to receive
15 health care services free from discrimination based on sex.

16
17 52. Defendants discriminated against Plaintiff in violation of the ACA by
18 intentionally ignoring his sex, referring to him with the wrong gender pronouns and by
19 having a computer system that does not allow implementation of the proper gender
20 information in their hospitals. Non-transgender individuals or individuals without a
21 diagnosis of gender dysphoria would not have been subjected to this discrimination by
22 Adventist. Terry Lawrence has been aggrieved by this violation of the ACA.

23
24 53. As a result of Defendant's conduct, Terry suffers from emotional distress and
25 anguish, embarrassment, humiliation, violation of dignity, loss of enjoyment of life, and
26 other compensatory damages.

27
28 54. Plaintiff seeks relief, including declaratory and injunctive relief as set forth below.

1
2 SECOND CAUSE OF ACTION
3 VIOLATION OF UNRUH CIVIL RIGHTS ACT, CIVIL CODE SECTION 51 et. Seq.
(Discrimination based on Sex)

4 55. Plaintiff incorporates by reference each and every allegation in the foregoing
5 paragraphs of this Complaint.

6
7 56. California Civil Code Section 51(b) et seq., also known as the Unruh Civil Rights
8 Act, provides that all persons in the state are entitled to the “full and equal
9 accommodations, advantages, facilities, privileges, or services in all business
10 establishments of every kind whatsoever,” regardless of sex. Under California Civil Code
11 Section 51(e)(5) sex is expressly defined to include “a person’s gender identity and
12 gender expression.”

13
14 57. Terry is a transgender person. As such, he is within a class of person protected by
15 California Civil Code Section 51(b).

16
17 58. Defendant is a “business establishment” for the purposes of California Civil Code
18 Section 51.

19
20 59. Terry sought appropriate medical care, a service Adventist provides to the public.
21 Defendant’s conduct denied, aided, incited a denial of, discriminated, or made a
22 distinction that denied full and equal advantages, privileges, and series to Terry based
23 upon his sex, and therefore constituted a violation of California Civil Code Section 51
24 (b). Accordingly, Terry is entitled to recover a civil penalty authorized by California
25 Civil Code Section 52(a).

26
27 60. Adventist staff repeatedly addressed Terry as female and refused to acknowledge
28 his sex and male gender identify.

1
2 61. As a result, Terry was forced to leave Adventist Hospital before receiving the
3 treatment and testing he and his family required. Terry suffered significant emotional
4 distress and gender dysphoria as a direct result of these actions.

5
6 62. As a direct and proximate result of Adventist's wrongful actions, Terry has and
7 continues to suffer damages including severe emotional distress and mental anguish all in
8 the amount to be proven at trial but exceeding the minimum jurisdiction limits of this
9 court.

10
11 63. Plaintiff seeks relief, including declaratory and injunctive relief as set forth below.

12 THIRD CAUSE OF ACTION

13 VIOLATION OF CALIFORNIA'S UNRUH CIVIL RIGHTS ACT, CIVIL CODE SECTION 51
14 ET SEQ. (DISCRIMINATION BASED ON DISABILITY)

15 64. Plaintiffs incorporate by reference each and every allegation in the foregoing paragraphs
16 of this Complaint.

17
18 65. California Civil Code Section 51(b) et seq., also known as the Unruh Civil Rights Act,
19 provides that all persons in the state are entitled to the "full and equal accommodations,
20 advantages, facilities, privileges, or services in all business establishments of every kind
21 whatsoever," regardless of sex. Under California Civil Code Section 51(e)(5) sex is
22 expressly defined to include "a person's gender identity and gender expression."

23
24 66. Terry is a transgender person. As such, he is within a class of person protected by
25 California Civil Code Section 51(b).

26
27 67. Defendant is a "business establishment" for the purposes of California Civil Code Section
28 51.

68. Plaintiff's gender dysphoria constitutes a mental disability that limits a major life activity. Cal. Gov't Code Section 12926(j), 12926.1©. This disability falls within the purview of the Unruh Civil Rights Act. Cal.Civ.Code Section 51(e)(1).

69. Plaintiff sought appropriate medical care, a service Adventists provides to the public.

70. Adventist's conduct violate the Unruh Civil rights Act by denying (or aiding or inciting the denial of) Plaintiff's rights to full and equal use of the accommodations, advantages, facilities, privileges, or services Adventist offers to patients by denying Plaintiff adequate care on the basis of his disability. Accordingly, he is entitled to recover a civil penalty authorized by California Civil Code Section 52(a)

71. As a direct and proximate result of Adventist's wrongful actions, Terry continues to suffer damages, including severe emotional distress and mental anguish, all in an amount to be proven at trial but exceeding the minimum jurisdictional limits of this court.

72. Plaintiff seeks relief, including declaratory and injunctive relief, as set forth below.

FOURTH CAUSE OF ACTION-VIOLATION OF CALIFORNIA GOVERNMENT CODE SECTION 11135 (DISCRIMINATION BASED ON SEX)

73. Plaintiff incorporates by reference each and every allegation in the foregoing paragraphs of this Complaint.

74. Section 11135(a) of the California Government Code provides in pertinent part that no person in the State of California shall, on the basis of sex, be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is funded directly by the state or receives any financial assistance from the state. Cal.Gov't Code section 11135(a)

1
2 75. The term “sex” expressly includes discrimination based on gender identity and
3 expression. Cal.Gov’t Code Sections 11135(e), 12926®(2).
4

5 76. California Government Code Section 11135(f) clarifies that any person who is perceived
6 to have, or is associated with someone who has, any of the characteristics listed under
7 Section 11135 is also protected from discrimination in state-funded programs.
8

9 77. At all times relevant to this action, Adventist received financial assistance from the State
10 of California. As such, Defendant is subject to the anti-discrimination provisions of
11 Section 11135.
12

13 78. Defendant’s conduct denied Plaintiff full and equal access to the services, programs and
14 activities offered by Defendant to patients at Adventist in violation of Civil Gov’t Code
15 Section 11135.
16

17 79. Defendant’s conduct also denied Plaintiffs wife and child who are “associated with”
18 Plaintiff under the meaning of the statute by virtue of the fact that the are the wife and
19 child of Terry Lawrence, a transgender person, full and equal access to the service,
20 programs and activities offered by Defendants in violation of Section 11135. Plaintiff’s
21 wife and child have been injured as set forth in Plaintiff’s Declaration.
22

23 80. Plaintiff seeks relief, including declaratory and injunctive relief, as set forth below.
24

25 FIFTH CAUSE OF ACTION-VIOLATION OF CALIFORNIA GOVERNMENT CODE
26 SECTION 11135 (DISCRIMINATION BASED ON DISABILITY)

27 81. Plaintiff incorporates by reference each and every allegation in the foregoing paragraphs
28 of this Complaint.

1 82. Section 11135(a) of the California Government Code provides in pertinent part that no
2 person in the State of California shall, on the basis of sex, be unlawfully denied full and
3 equal access to the benefits of, or be unlawfully subjected to discrimination under, any
4 program or activity that is funded directly by the state or receives any financial assistance
5 from the state. Cal.Gov't Code section 11135(a)

6
7 83. The term "sex" expressly includes discrimination based on gender identity and
8 expression. Cal.Gov't Code Sections 11135(e), 12926®(2).

9
10 84. California Government Code Section 11135(f) clarifies that any person who is perceived
11 to have, or is associated with someone who has, any of the characteristics listed under
12 Section 11135 is also protected from discrimination in state-funded programs.

13
14 85. At all times relevant to this action, Plaintiff was and is a qualified individual with a
15 disability within the meaning of Section 11135©(1) and meets the essential requirements
16 for the receipt of the services, programs or activities of Defendant. Cal.Gov't Code
17 Sections 11135; 12926(j)

18
19 86 At all times relevant to this action, Adventist received financial assistance from the State
20 of California. As such, Defendant is subject to the anti-discrimination provisions of
21 Section 11135.

22
23 87 Defendant's conduct denied Plaintiff full and equal access to the services, programs and
24 activities offered by Defendant to patients at Adventist in violation of Civil Gov't Code
25 Section 11135.

26
27 88. Defendant's conduct also denied Plaintiffs wife and child who are "associated with"
28 Plaintiff under the meaning of the statute by virtue of the fact that they are the wife and

child of Terry Lawrence, a transgender person, full and equal access to the service, programs and activities offered by Defendants in violation of Section 11135. Plaintiff's wife and child have been injured as set forth in Plaintiff's Declaration.

89. Plaintiff seeks relief, including declaratory and injunctive relief, as set forth below.

SIXTH CAUSE OF ACTION

VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS CODE SECTIONS 17200 ET SEQ

90. Plaintiff incorporates by reference each and every allegation in the foregoing paragraphs of this Complaint

91. California Business and Professions Code Section 17200, also known as the California Unfair Competition Law, prohibit unfair competition in the form of any unlawful, unfair or fraudulent business act or practice.

92. California Business and Professions Code Section 17204 allows "any person acting for the interests of itself, its members, or the general public" to prosecute a civil action for violation of the Unfair Competition law.

93. As set forth herein, Adventist committed unlawful, unfair, and/or fraudulent business acts and practices as defined by California Business & Professions Code Section 17200, by engaging in the following acts, without limitation:

- a. Unfairly and falsely representing itself to Plaintiff and the general public as being capable of working with transgender patients and patients with gender dysphoria in violation of Cal.Bus.& Pro. Code Section 17500. Defendant made these representation through statements and information contained on its website and in its "Gender identity and our registration process" brochure.

- b. Failing to respect the rights of patients pursuant to the Lanterman-Petris Short Act, which clarifies the rights of people with mental health conditions and provides safeguards to ensure the treatment procedures are appropriate. Cal.Welf.& Inst. Code Section 5325. These rights require that “[t]reatment should be provided in ways that are least restrictive of the personal liberty of the individual,” and provide a “right to dignity, privacy, and human care,” and a “right to be free from unnecessary or excessive...isolation, or abuse.” Cal.Welf.& Inst. Code Section 5325.1
- c. Failing to provide public accommodations free from discrimination based on gender identity, as required by the Unruh Civil Rights Act, California Government Code Section 11135, and the Affordable Care Act.
- d. Failing to provide public accommodations free from discrimination based on disability, as required by the Unruh Civil Rights Act and California Government Code Section 11135.

95. Plaintiff sought medical care for himself and his family at Adventist because it was the only available option.
96. The unfair acts described above are the violations of law serve as unlawful, unfair, and/or fraudulent predicate acts and practices for purposes of California Business and Professions Code Section 17200. As a direct and proximate result of Adventists unfair acts and practices described herein, Plaintiff has suffered economic injury including but not limited to loss of money and/or property, such as medical and hospital costs, counseling fees, traveling expenses and other out of pocket expenses.
97. Plaintiff has also suffered injury in fact as a result of Adventists actions for which there is no adequate remedy at law. Plaintiffs is informed and believes and thereon

1 alleges that unless restrained by order of the Court, Adventist will continue the acts
2 alleged above, and/or similar acts.

3
4 98. By all the foraging alleged conduct, Adventist has committed and is continuing to
5 commit, ongoing unlawful unfair and/or fraudulent business practices within the
6 meaning of California Business & Professions Code Section 17200 et seq.

7
8 99. As a direct and proximate result of the unfair business practices described above
9 Plaintiff has suffered significant losses, and Defendants unjustly enriched.

10 Pursuant to California Business & Professions Code Section 17203, Plaintiffs are
11 entitled to (a) restitution of money acquired by means of its unfair business
12 practices, in amounts no yet ascertained but to be ascertained at trial; (b)
13 injunctive relief against Defendant's continuation of its unfair business practices;
14 and (c) a declaration that defendant's business practices are unfair within the
15 meaning of the statutes.

16
17 100. Plaintiff has assumed the responsibility of enforcement of the laws and lawful
18 claims specified herein. There is a financial burden incurred in pursuing this action
19 which is in in the public interest. Therefore, reasonable attorneys fees are
20 appropriate pursuant to California code of Civil Procedure Section 1021.5.

21
22 SEVENTH CAUSE OF ACTION
23 VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS CODE SECTION
24 17500 ET SEQ.

25 101. Plaintiffs incorporate by reference each and every allegation in the foregoing
26 paragraphs of this Complaint.

27 102. Adventist has engaged in false advertising by the following acts, without limitation:
28

1 a. Stating on their website that “As a recipient of Federal financial assistance,
2 Adventist Health will provide an environment for patients that is free from
3 discrimination and will not exclude or treat people differently because of their ability
4 to pay, age, color, creed, culture, disability, gender identity or expression, language,
5 marital status, national origin, religion, sex, pregnancy, sexual orientation,
6 socioeconomic status, transgender status, type of insurance, or veteran’s status, when
7 delivering care, treatment, services and benefits for inpatients and outpatients,
8 including assignments or transfers within the facility and referrals to or from the
9 facility directly or through contractual or other arrangements. This statement is in
10 accordance with the provisions of Title VI of the Civil Rights Act of 1964, Section
11 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and
12 Regulations of the U.S. Department of Health and Human Services issued pursuant to
13 these statutes at Title 45 Code of Federal Regulations Parts 80, 84, and 91”

14
15 b. By representing in their literature entitled “Gender identity and our registration
16 process” that they “address and refer to [their] patients on the basis of their self-
17 identified gender, using their pronouns and name.” Defendants further misrepresent in
18 the same literature that your “information is confidential and protected by law.” The
19 same statement above is copied to this brochure.
20

21 103. Plaintiff has no choice; this is the only hospital where he lives with his family. Plaintiff is
22 informed and believes and alleges that Adventist intended to sell services by engaging in
23 advertising that was untrue or misleading, and which Adventist knew or should have
24 known was untrue or misleading, concerning its ability to sensitively treat and provide
25 services to transgender persons.
26
27
28

1 104. As a direct and proximate result of Adventists unfair acts and practices described herein,
2 Plaintiff has suffered economic injury, including but not limited to the loss of money
3 and/or property, such as medical and hospital costs, counseling fees, travel expenses and
4 other out of pocket expenses.

5
6 105. Adventist's false advertising is ongoing and presents a threat to member of the
7 general public seeking appropriate medical treatment options in the Adventist has
8 failed to publicly acknowledge the wrongfulness of its actions, implement
9 institutional changes to prevent problems from recurring and otherwise provide
10 the complete relief required by statute.

11
12 106. Adventists acts and practices as alleged herein constitute acts of false advertising
13 within the meaning of California Business and Professions Code Section 12500
14 et. Seq.

15
16 107. Plaintiff is entitled to restitution of all monies paid to Adventist as a result of
17 Defendant's false advertising and to injunctive relief under California Business
18 and Professions Code Section 17535 to prevent continue false advertising by
19 Defendant.
20

21
22 108. Plaintiff seeks relief, including declaratory and injunctive relief, as set forth below:
23

24 PRAYER

25
26 WHEREFORE, Plaintiff prays for judgment as follows:
27
28

1 Compensatory damages and restitution in an amount to be determined at trial, plus interest
2 accruing between December 20, 2019, and the date of judgment;

3
4 For injunctive relief, according to proof;

5
6 For punitive damages according to proof, but not less than \$500,000.00

7
8 For Attorney fees, statutory costs and expenses;

9
10 For judgment in favor of Plaintiff and against Defendants on all causes of action; ad

11
12 For such further relief as the Court may deem just and proper.

13 DEMAND FOR JURY TRIAL

14
15 Plaintiff Terry Lawrence, and individual, hereby demands a jury trial.

16
17
18
19 Dated-November 19, 2021 LAW OFFICE OF HELANE A. SIMON

20
21 /S/Helane A. Simon

22
23 Attorney for Plaintiff Terry D. Lawrence